



2015 Wet Weather Consent Decree Workshop

April 29 – 30, 2015
Hyatt at the Bellevue
Philadelphia, PA

Agenda

Current to April 27, 2015

All rooms are located on the 19th Floor unless otherwise noted.

Wednesday, April 29

Morning

7:30 – 4:00 Registration

Rose Garden Promenade

8:15 – 9:30

Rose Garden

Opening Remarks & Workshop Overview

Hilary Meltzer

Chair, NACWA Legal Affairs Committee

Deputy Chief, Environmental Law Division

New York City Law Department

New York, NY

Opening Roundtable Discussion

Understanding the Regulator's Perspective on Wet Weather Enforcement

Rarely do clean water utilities get an “inside look” at how regulators are really thinking and strategizing during enforcement negotiations. Well, here's your chance! This panel of veteran EPA attorneys from Headquarters and EPA Regional offices will share their insights on how regulators approach wet weather negotiations, what their key objectives are, what kinds of approaches from municipalities they find most and least effective, and how utilities can best position themselves for productive negotiations with regulators. There will also be opportunity for questions and dialogue with the roundtable speakers. Since many utilities often have their first enforcement contact with Regional and state officials, understanding these issues from both the Regional and Headquarters perspectives can be particularly helpful. Whether your utility is currently in enforcement discussions or anticipating them in the future, don't miss this opportunity to “demystify” the negotiation experience!

Mark Pollins

Director, Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Washington, DC

Joanna Citron Day

Senior Attorney, Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Washington, DC

Michael Wagner

Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
Boston, MA

Yvette Roundtree

Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 3
Philadelphia, PA

Bill Bush

Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
Atlanta, GA

Gary Prichard

Associate Regional Counsel
U.S. Environmental Protection Agency, Region 5
Chicago, IL

9:30 – 9:45

Break

9:45 – 11:00

Setting the Right Targets for Success: Determining the Best Outcomes for Your Community

Determining the appropriate targets and end goals for enforcement actions is often the most critical part of negotiations for any community. Should the consent decree outcomes be volumetric based or water quality based? Should a utility pursue a presumption approach or demonstration approach? Determining the right answers to these questions drives all other key issues like affordability, schedule, types of control measures, etc. A critical part of this discussion is also the importance of knowing your system and your financial projections before agreeing to specific outcomes. Expert speakers on this panel will present case studies on how different communities have set targets and what lessons they have learned.

Andy Lukas

Vice President, Wet Weather Leader
Brown & Caldwell
Milwaukee, WI

Carrie Noteboom

Senior Counsel, Environmental Law Division
New York City Law Department
New York, NY

Greg Stacy

Director, Infrastructure Capital Planning Department
Northern Kentucky Sanitation District No. 1
Ft. Wright, KY

11:00 – 11:15

Break

11:15 - 12:30

Maximizing Opportunities for Success: Pursuing Strategies to Optimize Cost-Effective Environmental Outcomes

In preparing for negotiations, utilities need to focus on key tools that can maximize their leverage for the most cost-effective outcomes. These can include a variety of options such as EPA's recent *Integrated Planning Framework* and *Affordability Framework*, utilizing adaptive management and asset management principles, pursuing innovative approaches like green infrastructure, and even forming alliances with non-traditional partners like community groups and environmental activist organizations. Speakers on this panel will discuss tools and strategies to best position utilities for enforcement negotiations.

Fred Andes

Partner
Barnes & Thornburg LLP
Chicago, IL

Lou McMahon

Partner
McMahon DeGulis LLP
Cleveland, OH

Samuel Brown

Senior Attorney
Hunton & Williams, LLP
San Francisco, CA

Afternoon

12:30 - 1:45

Luncheon

Opening Remarks

Ken Kirk

Executive Director

NACWA

Washington, DC

Luncheon Address

Philadelphia Case Study – Using Water Policy, Science, and Dialogue to Partner With EPA on Wet Weather Issues

In 2012, the City of Philadelphia and EPA signed the *Green City, Clean Waters* Partnership Agreement to address wet weather overflows. Through this unique agreement, EPA endorsed a plan which promotes extensive use of green infrastructure. This Partnership Agreement led to an Administrative Order for Compliance on Consent in lieu of a separate federal consent decree. Our lunch discussion will address how the 15 year dialogue and partnership between the City and EPA leading up to these agreements was shaped by federal frameworks and extensive research and analysis of specific local environmental, economic and community issues.

Howard Neukrug

NACWA Board Member

Commissioner

Philadelphia Water Department

Philadelphia, PA

2:00

Rose Garden

Living With Your Decree, Part I: Effectively Communicating With Your Public and Your Political Leaders

One of the most important tasks in effectively implementing a consent decree or enforcement order is also one that many utilities may overlook – effectively communicating about the decree, its requirements, and its long-term impacts on the community to the public and local political leaders. Efforts to enlist ratepayers, community groups, and political leaders as supporters of wet weather projects can pay huge dividends down the road when implementation challenges arise; conversely, failing to maintain good communication with the public and elected officials can create significant hurdles. Communicating about enforcement issues to other municipal agencies or even within your own utility is also very important. Learn how to master the art of effective communication around enforcement orders from expert speakers on this panel.

Carter Strickland

Vice President

HDR Engineering, Inc.

New York, NY

Jamie Samons

Chair, NACWA Communications & Public Affairs Committee

Public Affairs Manager

Narragansett Bay Commission

Providence, RI

Lance LeComb

Vice Chair, NACWA Communications & Public Affairs Committee

Manager of Public Information & Spokesperson

Metropolitan St. Louis Sewer District

St. Louis, MO

3:15 - 3:30

Break

3:30 - 5:00

Living With Your Decree, Part II: Addressing Implementation Challenges and Considering Modification

The old saying “nothing ever quite goes as planned” is an understatement when it comes to consent decree implementation. From reporting and monitoring requirements to unanticipated construction delays, and from economic recessions to substantial changes in community affordability, the list of potential challenges utilities face in complying with enforcement orders is daunting. And while many clean water agencies may seek modification of a decree when circumstances change unexpectedly, the process for pursuing modification can be difficult. Luckily, the veteran clean water professionals on this panel will provide helpful suggestions on how best to address the many challenges of consent decree implementation, as well as how to best secure effective modification of an enforcement order when necessary.

Jason Sanson

Section Manager

City of Columbus Department of Public Utilities

Columbus, OH

Susan Richardson

Counsel

Kilpatrick, Townsend & Stockton, LLP

Atlanta, GA

Karen Hansen

Principal

Beveridge & Diamond, P.C.

Austin, TX

Evening

6:00 – 7:00

Conservatory, 12th Floor

Reception

Thursday, April 30

Morning

7:30 - 11:00

Registration

Rose Garden Promenade

8:00 – 8:10

Rose Garden

Opening Remarks – Roundtable Overview

Hilary Meltzer

Chair, NACWA Legal Affairs Committee

8:15 – 11:15

*Rose Garden, Wine
Hall, Cliveden,*

Roundtable Discussions – Key Consent Decree Issues

You've listened to all the presentations from the experts, now it's your chance to engage more directly in the discussion and share information with your peers! For this session, participants will take part in four different roundtable discussions addressing different key topics involving enforcement issues and consent decrees that were addressed during the previous day's presentations. Each discussion, led by expert discussion leaders, will last 45 minutes. Participants will then rotate to the next table, with an opportunity to participate in each discussion topic. Use this opportunity to roll up your sleeves, exchange ideas with your colleagues, share experiences and thoughts, network, and learn something new!

Roundtable One: *Determining & Setting the Right Goals for Your Consent Decree: Understanding Your System, Your Finances, and Appropriate End Targets for A Consent Decree*

Discussion Leaders:

Hilary Meltzer

New York City Law Department

Tim Braun

EmNet, LLC

John Lazzaretti

Squire Patton Boggs

Roundtable Two: *Using The Right Tool Box: Maximizing Negotiation Strategies Such As Integrated Planning, Affordability, and Green Infrastructure to Achieve The Best Outcome*

Discussion Leaders:

Erika Powers

Barnes & Thornburg LLP

John Sheehan

Clark Hill PLC

Brandon Vatter

Hatch Mott MacDonald

Roundtable Three: *Effectively Communicating and Implementing Your Decree With the Public and Political Leaders*

Discussion Leaders:

Jeff Theerman

Brown and Caldwell

Lance LeComb

Metropolitan St. Louis Sewer District

Jamie Samons

Narragansett Bay Commission

Roundtable Four: *Implementation Challenges and Modification*

Discussion Leaders:

Nathan Vassar

Lloyd Gosselink PC

Devona Marshall

Northeast Ohio Regional Sewer District

Richard Davis

Beveridge & Diamond, P.C.

11:15 – 11:30

Break

11:30 – 12:30

Roundtable Report Out

Discussion leaders from each of the four roundtables will provide highlights of their group discussions, summarizing key points and identifying common themes that emerged during the roundtable conversations. Close out your *Consent Decree Workshop* experience with a summary of your clean water colleagues' most important thoughts and perspectives on critical consent decree issues!

12:30

Closing Remarks/Adjourn

Hilary Meltzer

Chair, NACWA Legal Affairs Committee